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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/475,269	12/30/1999	AYMAN BEDAIR	03384-0364	6151
7590	08/19/2005		EXAMINER	
Docket Clerk PO Drawer 800889 Dallas, TX 75380			HARPER, KEVIN C	
			ART UNIT	PAPER NUMBER
			2666	
DATE MAILED: 08/19/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/475,269

Applicant(s)

BEDAIR ET AL.

Examiner

Kevin C. Harper

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 20-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 2 is/are allowed.
- 6) ☒ Claim(s) 1,3-14 and 20-32 is/are rejected.
- 7) ☐ Claim(s) 15 and 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/04, 6/04, 2/05</u> . | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

Applicant's arguments filed February 10, 2005 have been fully considered but they are not persuasive. Applicant argued that Daniels does not disclose measuring a parameter associated with data packets. However, Daniels discloses that congestion as a network parameter is used to determine whether to optimize the network bandwidth by changing the data rate of an available bit rate (ABR) connection (col. 33, lines 51-54).

Drawings

Replacement drawings were received on February 10, 2005. These drawings are acceptable.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Daniel et al. (US 5,726,985).

1. Regarding claim 1 and 20, Daniel discloses a method of dynamically adapting a PBX network (fig. 1) to maintain a quality of service level in the network (col. 3, lines 26-41 and col. 8, lines 16-27). The method comprises the steps of identifying and measuring a parameter associated with a data packet transported across the network (col. 33, lines 51-54), and enabling

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optimization of the network bandwidth when the measured parameter is different from a predetermined value (note: congestion or removal of congestion in the network to adjust an ABR connection).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 3, 6-8, 21 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel, as applied to claim 1 or 20 above, in further view of Chang et al. (US 2003/0091028).

2. Regarding claims 3, 6-8, 21 and 24-26, Daniel does not disclose determining QoS or congestion based on a packet sequence. Chang disclose that a QoS of voice information using Internet packets is determined by packets arriving out of order (page 12, Table 1, VoIP QoS Parameters). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to determine a QoS value related to packets arriving out-of-order in the invention of Daniel in order to choose a better path for voice information due out-of-order packets causing reduced voice quality.

Claims 4-5 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel, as applied to claim 1 or 20 above, in further view of Campbell et al. (US 2003/0140159).

3. Regarding claims 4-5 and 22-23, Daniel does not disclose determining congestion due to packet arrival times. Campbell discloses detecting congestion based on packet inter-arrival times (para. 136 and 139). Therefore, it would have been obvious to one skilled in the art at the time

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the invention was made to detect congestion based on arrival times of subsequent packets in the invention of Daniel in order to passively detect network defects at a destination.

Claims 9-14 and 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel in view of Chang, as applied to claim 8 or 26 above, in further view of Geagan, III et al. (US 6,363,371).

4. Regarding claims 9-10 and 27-28, Daniel in view of Chang does not disclose incrementing a packet counter as claimed. Geagan discloses incrementing a counter by one to keep track of the sequence of incoming packets and incrementing a counter by more than one if a packet is lost (abstract; Figure 3; Figure 6, steps 78 and 84-90). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to keep track of a sequence of packets using a counter in the invention of Daniel in view of Chang in order to properly convey the real-time information within received packets (Geagan, col. 2, lines 38-42).

5. Regarding claims 11-14 and 29-32, in Daniel the optimization is static and adaptive (col. 15, lines 51-55; note: the bandwidth for ABR connections is reduced or stopped during congestion).

Allowable Subject Matter

6. Claim 2 is allowed.

7. Claims 15 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 571-272-3166. The examiner can normally be reached weekdays from 11:00 AM to 7:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao, can be reached at 571-272-3174. The centralized fax number for the Patent Office is 571-273-8300. For non-official communications, the examiner's personal fax number is 571-273-3166 and the examiner's e-mail address is kevin.harper@uspto.gov.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications associated with a customer number is available through Private PAIR only. For

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more information about the PAIR system, see portal.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin C. Harper

August 17, 2005



DANG TON
PRIMARY EXAMINER